

2008 Jan 14 PM 02:20

CLERK U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CANTONUNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:) CHAPTER 7
)
MICHAEL E. GOODWIN,) CASE NO. 07-63801
)
Debtor.) JUDGE RUSS KENDIG
)
) MEMORANDUM OF OPINION
) (NOT INTENDED FOR
) PUBLICATION)

This matter is before the court on Debtor's Amended Application to Proceed *In Forma Pauperis* (hereafter "application") filed on January 4, 2008. No objections or responses have been filed.

Following passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, debtors are permitted to seek a waiver of the bankruptcy filing fee. Pursuant to 28 U.S.C. § 1930(f), a "bankruptcy court may waive the filing fee . . . if the court determines that such individual has less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments." By the terms of the statute, a court's ability to waive the fee is permissive, not mandatory ("may waive"), and is premised upon a finding that a debtor meets the income and inability to pay in installments criteria.

The court will first determine whether Debtors' income is 150 percent of the poverty level. According to the Department of Health and Human Services 2007 Poverty Level Guidelines,¹ available at <http://aspe.hhs.gov/poverty/07poverty.shtml>, the poverty income for a family of four is \$20,650.00. At 150 percent of poverty, the poverty income for this family is \$30,975.00 annually, or \$2,581.25 per month.

According to the amended application, Debtor's income from Line 16 of Schedule I is \$2,400.00. This is derived from Debtor's income from operation of a business (\$900.00) and his girlfriend's social security (\$1,500.00). The B22A reflects the same income for Debtor. Additionally, Debtor's 2006 tax return indicates his adjusted gross earnings for 2006 were \$6,364.00 and that he received a refund of \$1,152.00. Based upon the information provided by Debtor, the court finds that his income is less than 150% of the poverty income and therefore he has established the first prong of the test.

Next, the court must determine if Debtor has the ability to pay the filing fee in installments. Upon review of Debtor's Schedule J, the court notes that the budget is a

¹ Debtor's case was filed on December 18, 2007.

combined household budget for Debtor and his girlfriend and their respective dependents. After careful review, the court concludes that Debtor is able to pay the filing fee in installments. Although Schedule I reflects a monthly shortfall of \$322.00 per month, the budget includes \$494.00 in luxury or non-maintenance expenses: \$270.00 for recreation, \$24.00 for insurance on a 4-wheeler, a \$200.00 for payments on 4-wheelers, and \$85.00 for cable. Further, an additional \$465.00 is allotted to the personal debts of Debtor's girlfriend. The remainder of Debtor's budget, which is reasonable, totals \$1,678.00. If the responsibility for living expenses were split between Debtor and his girlfriend, he would be responsible for \$839.00, leaving \$61.00 per month for the filing fee. The court finds that this is sufficient to allow Debtor to pay the filing fee in installments. Debtor has failed to establish the second prong of the analysis.

In light of the above, the Court hereby **DENIES** Debtor's application to waive the filing fee. Debtor will be permitted to pay the filing fee in monthly installments of \$75.00 until the fee is paid in full. Debtor may pay the amount in full anytime during the payment plan.² The first payment is due by January 25, 2008. If paying by mail, Debtor shall send a money order, payable to Clerk, United States Bankruptcy Court, to United States Bankruptcy Court, 201 Cleveland Ave., S.W., Canton, OH 44702. If paying in person, Debtor shall bring either the exact amount of cash or a money order, payable to Clerk, United States Bankruptcy Court, to the Clerk's Office. Failure to pay the filing fee in accordance with this order will result in dismissal of the case.

An order in accordance with this decision shall be issued immediately.

/s/ Russ Kendig

RUSS KENDIG
U.S. BANKRUPTCY JUDGE

² The payment schedule is as follows:

January 25, 2008:	\$75.00
February 22, 2008:	\$75.00
March 21, 2008:	\$75.00
April 18, 2008:	\$74.00

Service List:

Michael E Goodwin
338 Boston Ave
Mansfield, OH 44906

Robert Goldberger
13 Park Ave W, #300
Mansfield, OH 44902

Josiah L Mason
153 W Main St
PO Box 345
Ashland, OH 44805-2219